

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION

This document relates to:

*The County of Summit, Ohio, et al. v. Purdue
Pharma L.P., et al.*, Case No. 18-OP-45090

MDL No. 2804

Case No. 17-md-2804

Hon. Dan Aaron Polster

**SPECIALLY-APPEARING DEFENDANT TEVA PHARMACEUTICAL INDUSTRIES
LTD.’S MOTION TO STRIKE THE EXPERT REPORT OF ALEC FAHEY**

Teva Pharmaceutical Industries Ltd. (“Teva Ltd.”), specially appearing, respectfully requests that the Court strike the expert report of Alec Fahey (the “Fahey Report”).¹ (Dkt. No. 1817.) As explained in the enclosed Memorandum of Law, the Court should strike the Fahey Report for three reasons. First, the Fahey Report is untimely under Case Management Order 8, which required Plaintiffs to disclose and submit expert reports by March 25, 2019. (Dkt. No. 1306.) Second, the Fahey Report exceeds the jurisdictional discovery permitted in Special Master Cohen’s April 3 Order, (Dkt. No. 1512), and should be excluded as a violation of that Order. Third, the Fahey Report is inadmissible under Federal Rule of Evidence 702 and *Daubert*, as it invades both the fact-finding province of the jury and the province of the Court to instruct the jury on the law. If the Court does not strike the Fahey Report, Teva Ltd. will suffer prejudice because, pursuant to the Court’s July 3, 2019 non-docketed Order and July 8, 2019 non-docketed Order,

¹ Teva Ltd. is an Israeli company that is not subject to and contests personal jurisdiction for the reasons explained in its pending motion to dismiss for lack of personal jurisdiction. *See* (Dkt. No. 1264.) Teva Ltd. is specially appearing to file this motion to strike the Fahey Report submitted in support of Plaintiffs’ Opposition to Teva Ltd.’s Motion to Dismiss for Lack of Personal Jurisdiction. *See* (Dkt. No. 1815.) Teva Ltd. does not waive and expressly preserves its pending personal jurisdiction challenges.

Teva Ltd. cannot conduct remedial discovery, including taking the deposition of Alec Fahey or submitting a rebuttal report.²

Accordingly, Teva Ltd. respectfully requests that the Court grant its Motion to Strike the Expert Report of Alec Fahey.

Dated: July 30, 2019

Respectfully submitted,

/s/ Steven A. Reed

Steven A. Reed
Eric W. Sitarchuk
Rebecca J. Hillyer
MORGAN, LEWIS & BOCKIUS LLP
1701 Market St.
Philadelphia, PA 19103-2921
Tel: (215) 963-5603
steven.reed@morganlewis.com
eric.sitarchuk@morganlewis.com
rebecca.hillyer@morganlewis.com

Nancy L. Patterson
MORGAN, LEWIS & BOCKIUS LLP
1000 Louisiana Street, Suite 4000
Houston, TX 77002-5005
Tel: (713) 890-5195
nancy.patterson@morganlewis.com

Brian Ercole
MORGAN, LEWIS & BOCKIUS LLP
200 South Biscayne Boulevard, Suite 5300
Miami, FL 33131
Telephone: (305) 415-3000
Facsimile: (305) 415-3001
brian.ercole@morganlewis.com

*Attorneys for Specially-Appearing Defendant Teva
Pharmaceuticals Industries Ltd.*

² To the extent Teva Ltd. has misinterpreted the Court's orders, it requests the opportunity to move to depose Mr. Fahey and/or submit a rebuttal report.